

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 63, “Keg Beer Rules,” Iowa Administrative Code.

The proposed amendments:

1. Change Iowa Code chapter references from “111” to “461A” throughout the chapter.
2. Update the Iowa Administrative Code cross reference in the applicability rule for state forest camping areas.
3. Rescind the existing definition of “beach” and adopt a new definition of “beach” to be the same definition used in 571—Chapter 64.
4. Establish a definition for “department” to mean the Department of Natural Resources.
5. Establish a definition for “rental facility” to include lodges and open shelters with kitchenettes.
6. Rescind the definition of “kegger.”
7. Change the references to “department of natural resources officer” to “department personnel” to better reflect the current staffing structure in state parks and recreation areas.
8. Update the keg deposit requirement for rental facilities that charge both a rental fee and a damage deposit. The keg deposit will be waived in lieu of the rental facility damage deposit if the damage deposit amount is equal to or greater than the required keg deposit.
9. Strike the deposit amounts identified in the deposit disposition rule as the actual deposit required may not be the amounts listed and strike the reference to a \$1,000 deposit and replace it with “keg deposit.”
10. Update the responsibility agreement by striking the words “born on or before September 2, 1967,” and update the year “numbering.”

Any interested person may make written suggestions or comments on the proposed amendments on or before August 14, 2012. Such written materials should be directed to Sherry Arntzen, State Parks Bureau, Department of Natural Resources, 502 East Ninth Street, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact Sherry Arntzen at (515)242-6233 or at the State Parks Bureau offices on the fourth floor of the Wallace State Office Building in Des Moines, Iowa.

There will be a public hearing on August 14, 2012, at 2 p.m. in the Fourth Floor West Conference Room of the Wallace State Office Building in Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subjects of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department of Natural Resources and advise of those specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 455A.5(6), 461A.35, and 461A.47. The following amendments are proposed.

ITEM 1. Strike “(111,123)” wherever it appears in rules **571—63.1(111,123)** to **571—63.7(111,123)** and insert “(461A,123)” in lieu thereof.

ITEM 2. Amend rule 571—63.2(461A,123) as follows:

571—63.2(461A,123) Applicability. This chapter is applicable to all state parks and recreation areas managed by the parks, recreation, and preserves division of the department of natural resources and to the state forests containing designated campground areas listed in ~~571—62.1(461A)~~ 571—61.1(461A).

ITEM 3. Rescind the definition of “Beach” in rule **571—63.3(461A,123)** and adopt the following **new** definition in lieu thereof:

“Beach” or “beach area” is as defined in rule 571—64.1(461A).

ITEM 4. Adopt the following **new** definitions of “Department” and “Rental facility” in rule **571—63.3(461A,123)**:

“Department” means the department of natural resources.

“Rental facility” means a lodge or open shelter with kitchenette as defined in rule 571—61.2(461A).

ITEM 5. Rescind the definition of “Kegger” in rule **571—63.3(461A,123)**.

ITEM 6. Amend rule 571—63.4(461A,123) as follows:

571—63.4(461A,123) Prohibited areas. Keggers Gatherings at which keg beer is served shall not be conducted in beach areas, in campgrounds, or in parking areas or in areas immediately adjacent to those areas.

ITEM 7. Amend rule 571—63.5(461A,123) as follows:

571—63.5(461A,123) Procedure. Any person wishing to ~~conduct a kegger~~ hold a gathering with keg beer in any area to which this chapter applies shall notify the department of natural resources officer personnel in charge of the area in advance and comply with the following procedure:

63.5(1) A designated agent shall be named who shall sign a responsibility agreement. The content of the responsibility agreement shall be as stated in 571—63.7(461A,123).

63.5(2) The designated agent shall be available for personal contact by department of natural resources personnel at all times during the kegger gathering with keg beer.

63.5(3) The agent shall pay a deposit of \$100 per 100 or fewer persons or portion thereof at the ~~kegger, to~~ gathering with keg beer. The deposit shall be held by the department of natural resources officer personnel in charge of the area as a damage deposit. The department of natural resources officer Department personnel in charge of the area may designate the area in which the kegger gathering with keg beer is to be conducted. If the kegger takes place in an enclosed shelter for which a rental fee and deposit is charged, the \$100 shall be waived in lieu of the usual deposit for that facility. If the gathering with keg beer takes place in a rental facility that requires a rental fee and damage deposit, the keg deposit shall be waived in lieu of the rental facility damage deposit if the rental facility damage deposit is equal to or greater than the keg deposit.

63.5(4) The agent shall assume responsibility to ensure that all state laws are complied with in the conduct of persons attending the kegger gathering with keg beer, ~~and~~ that the area used for the kegger gathering is left in a clean, unlittered condition, and that no state property is damaged beyond the extent of normal wear and tear.

63.5(5) Conducting or continuation of the kegger gathering with keg beer shall be contingent on whether the persons involved are complying with all applicable state laws including but not limited to Iowa Code section 123.47; and chapter 461A; and the rules promulgated under those ~~chapters~~ sections and as long as on whether the activity does not interfere with other uses of area facilities.

63.5(6) The agent shall inform the department of natural resources officer personnel in charge of the area when the kegger gathering with keg beer is concluded and attendees have left the area.

ITEM 8. Amend rule 571—63.6(461A,123) as follows:

571—63.6(461A,123) Deposit disposition.

63.6(1) The \$100 deposit required by 63.5(3) shall be refunded within three days in full or on a prorated basis computed according to 63.6(2) depending on the condition in which the site is left after the ~~kegger~~ gathering with keg beer is held.

63.6(2) If it is necessary for department of natural resources personnel to clean up the area or repair any damage beyond ordinary wear and tear, a log of the time spent in such cleanup or repair shall be kept. The damage deposit refund shall be reduced by an amount equivalent to the applicable hourly wage of the employees for the time necessary to clean the area or repair the damage.

63.6(3) The \$1000 keg deposit is not to be construed as a limit of liability for damage to state property. The department of natural resources may take any legal action necessary to recover additional damage damages.

ITEM 9. Amend rule 571—63.7(461A,123) as follows:

571—63.7(461A,123) Responsibility agreement. The agreement required by 63.5(1) shall contain the following information:

RESPONSIBILITY AGREEMENT

I/We, the undersigned, being of 21 years of age or older, ~~or born before September 2, 1967,~~ and desiring to entertain ourselves and others at:

Area: _____

Date: _____

agree to leave the site used in the same condition as found, agree to clean up what debris and litter may be deposited during our stay, within the time period agreed to, agree to be responsible for any damages done to property within the area by ourselves or our guests, agree to ensure compliance with Iowa law respecting the possession of beer by underage persons, agree not to interfere with other use of park facilities, and, finally, agree to abide by all rules and regulations and all laws of this state.

Dated this _____ day of _____, 19 2_____.

Signature of Group Leaders (agents):

Identification Information:

Agents
(Name & Address)

Phone No. Driver's
License No. Vehicle
License

